

10:47 1 the reasonable cause statement were supplied right
10:47 2 before you were assigned the case?

10:47 3 A. That's correct.

10:47 4 Q. Do you recall when the corrected FBAR forms
10:47 5 were submitted?

10:47 6 MR. LINDER: Objection, assumes facts not
10:47 7 in evidence. You can answer.

10:47 8 A. I don't remember.

10:47 9 Q. (By Ms. Rubenstein) Let's go ahead and mark
10:47 10 Exhibit 5. This is a letter dated September 25, 2013
10:47 11 from Elizabeth Copeland to agent Cherrie Mayberry-Jones.

10:47 12 (Exhibit No. 5 marked.)

10:48 13 September 25, 2013, Exhibit 5, this would
10:48 14 have been when the FBARs, the corrected FBARs, were
10:48 15 filed for years 2006 through 2011?

10:49 16 A. Yes.

10:49 17 Q. Again, at this point you were or were not
10:49 18 assigned to the case?

10:49 19 A. Which case?

10:49 20 Q. Okay. Let me rephrase that. Bad question.
10:49 21 This was right around the time when you first started
10:49 22 working on Mr. Bittner's case?

10:49 23 A. That's correct.

10:49 24 Q. Okay. So by September 25, 2013, the taxpayer
10:49 25 has submitted corrected FBARs as reflected in this

10:49 1 September 25, 2013 letter. A week before he submitted
10:50 2 Forms 5471, amended 1040s, and a reasonable cause
10:50 3 statement. Yes?

10:50 4 A. Yes.

10:50 5 Q. And the taxpayer here is requesting to be
10:50 6 treated in accordance with FS 2011-13?

10:50 7 A. Yes.

10:50 8 Q. And are you familiar with that guidance?

10:50 9 A. Not very.

10:50 10 Q. What do you know about it?

10:50 11 A. I remember that Mr. Katz and Ms. Copeland
10:50 12 provided some material on it, but I don't remember the
10:51 13 content of that material.

10:51 14 Q. Okay.

10:51 15 MR. LINDER: We want to correct the
10:51 16 record. While you were getting that out is that for the
10:51 17 record Ms. Reach testified about the documents she
10:52 18 reviewed. There was a document reviewed that she
10:52 19 inadvertently left off. Can you describe this other
10:52 20 document that we reviewed in preparation for your
10:52 21 deposition?

10:52 22 THE WITNESS: Defendant Alexandru
10:52 23 Bittner's First Amended Answer.

10:52 24 MR. LINDER: I just wanted to clear that
10:52 25 up.

11:08 1 A. . . Yes.

11:08 2 . . Q. . . And corrected FBARs for tax years 2006 through
11:08 3 2011, correct?

11:09 4 . . A. . . Yes.

11:09 5 . . Q. . . And submitting those corrected FBARs and making
11:09 6 all of the corrections we've just discussed and the
11:09 7 amendments, the taxpayers requested to be treated in
11:09 8 accordance with this Fact Sheet FS 2011-13?

11:09 9 A. . . Yes.

11:09 10 . . Q. . . And this was before an exam had formally
11:09 11 commenced?

11:09 12 . . A. . . Yes.

11:09 13 . . Q. . . I'd like to go back to Exhibit -- if I can read
11:09 14 my own writing -- 5, the FBAR letter September 25, 2013.

11:10 15 These are the 2006 through 2011 corrected FBARs that you
11:10 16 audited, correct?

11:10 17 . . A. . . Yes.

11:10 18 . . Q. . . With this submission, this September 25, 2013
11:10 19 submission, the taxpayer submitted 36 pages of charts,
11:10 20 correct?

11:10 21 . . A. . . I didn't count the number of pages, but those
11:10 22 were attached, yes.

11:10 23 . . Q. . . Just for reference, on page 1 of the
11:10 24 September 25, 2013 letter it says, "Attached to each
11:10 25 FBAR are 36 pages of charts."

11:10 1 A. Okay.

11:10 2 Q. Let's take a look at the 2007 FBAR. Sorry,
11:11 3 it's attached to the letter.

11:11 4 A. Okay.

11:11 5 Q. Section 14 of the form, if the filer has an
11:11 6 interest in 25 or more accounts you check yes or no,
11:11 7 correct?

11:11 8 A. Yes.

11:11 9 Q. And box 14 is checked yes?

11:11 10 A. Yes.

11:11 11 Q. And then the instructions say enter total
11:11 12 number of accounts. Yes?

11:11 13 A. Yes.

11:11 14 Q. And how many accounts are entered?

11:11 15 A. 61.

11:11 16 Q. Do the FBAR -- or the FBAR instructions don't
11:11 17 require anything beyond that for the initial -- for the
11:11 18 submission of an FBAR, correct?

11:11 19 MR. LINDER: Objection, calls for
11:11 20 speculation. Objection, calls for a legal conclusion.
11:11 21 You can answer to the extent that you know.

11:12 22 A. I don't know.

11:12 23 Q. (By Ms. Rubenstein) Well, let's take a look at
11:12 24 what it says right here. I mean, it says it in box 14,
11:12 25 "If 'yes' is checked, do not complete Part II or Part

11:28 1 Q. . . Let's go ahead and go back to the Exhibit 5,
11:28 2 which was the September 25, 2013 submission with the
11:28 3 FBARs. . Looking at the cover letter, although not
11:28 4 required to, Mr. Bittner went ahead and attached these
11:28 5 36 pages of charts, one page for each separate taxpayer
11:28 6 name or entity with the banking information. . Yes?
11:29 7 . . A. . . I'm sorry, what was your question?
11:29 8 MS. RUBENSTEIN: . Could you read it back?
11:29 9 (Reporter read previous question.)
11:29 10 . . A. . . Yes.
11:29 11 . . Q. . . (By Ms. Rubenstein) . And just looking quickly
11:29 12 at the charts, just a quick look, these charts include
11:30 13 account names?
11:30 14 . . A. . . I'm not sure about that.
11:30 15 . . Q. . . Well, do you recall seeing this before?
11:30 16 . . A. . . Yes.
11:30 17 . . Q. . . Okay. . So let's just start at the top then.
11:30 18 Let's look at the first one. . It says bank branch, bank
11:30 19 address, account number on the top left of the first
11:30 20 chart.
11:30 21 . . A. . . Yes.
11:30 22 . . Q. . . Below that what information is located in that
11:30 23 column?
11:30 24 . . A. . . The name of the bank.
11:31 25 . . Q. . . What about the address?

11:31 1 A. . . And the address, yes.

11:31 2 . . . Q. . . What about the account number?

11:31 3 . . . A. . . And the account number.

11:31 4 . . . Q. . . And to the right there are columns for each
11:31 5 year, 2006, '7, '8, '9, '10, '11, correct?

11:31 6 . . . A. . . That's correct.

11:31 7 . . . Q. . . And what are in the columns to the right per
11:31 8 year?

11:31 9 . . . A. . . Amounts.

11:31 10 . . . Q. . . What amounts?

11:31 11 MR. LINDER: Objection, calls for
11:31 12 speculation. I don't think she created this chart.

11:31 13 Q. . . (By Ms. Rubenstein) . Well, let's read the top
11:31 14 title.

11:31 15 A. . . The title says Maximum Amount For a Day in
11:31 16 Romanian Banks (USDollars).

11:31 17 . . . Q. . . (By Mr. Katz) . Did you use this chart in
11:31 18 preparing your FBAR penalty assessments?

11:31 19 A. . . Yes, I did.

11:31 20 . . . Q. . . (By Mr. Katz) . Did you use these same numbers
11:31 21 and rely on all these numbers?

11:32 22 A. . . Yes, I did.

11:32 23 . . . Q. . . (By Mr. Katz) . And all these bank accounts?

11:32 24 . . . A. . . Yes, I did.

11:32 25 . . . Q. . . (By Mr. Katz) . Do you have any reason to think

11:32 1 that this information is incorrect? Do you have any
11:32 2 information contradicting this?

11:32 3 MR. LINDER: Objection, calls for
11:32 4 speculation. You can answer.

11:32 5 . . A. I don't have any information that says that the
11:32 6 amounts or the balance or any information here is
11:32 7 incorrect.

11:32 8 MR. KATZ: Thank you.

11:32 9 Q. (By Ms. Rubenstein) And you were supplied bank
11:32 10 statements in relation to these accounts?

11:32 11 A. No, I was not.

11:32 12 Q. You were not supplied bank statements for
11:32 13 Mr. Bittner's accounts, personal and business?

11:32 14 A. I think just personal.

11:32 15 Q. Okay. Let's go ahead and go back to Exhibit 1.
11:33 16 Let's look at the entry on 5/30/2014. And what happened
11:33 17 on 5/30/2014 according to your activity log?

11:33 18 A. "Received 40-page letter and CD in response to
11:33 19 IDR on the 1040 case."

11:33 20 Q. Does this entry help refresh your recollection
11:34 21 in any way about what you might have received?

11:34 22 A. No.

11:34 23 Q. Okay. Do you recall when you started to work
11:34 24 on the records related to the FBAR examination?

11:34 25 A. I don't.